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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

ACT VI OF 1864 (WHIPPING),

AS MODIFIED UP TO THE 1ST MARCH, 1895.

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STATEMENT OF REPEALS AND AMENDMENTS.

REPEALED IN PART	ACT X OF 1872;
	ACT XVI OF 1874;
	ACT X OF 1882.
AMENDED	ACT III OF 1895, ss. 5, 6;
(LOCALLY)	ACT XX OF 1886, s. 7 (*1*) (*c*);
	REG. I OF 1895, s. 3 (*1*).
SUPPLEMENTED (LOCALLY)	REG. III OF 1875;
	REG. IV OF 1887, ss. 8, 14 (*2*).

The following changes have been made in reprinting the Act:—

(1) repealed matter has been omitted, explanatory notes being inserted;

(2) amendments have been inserted in their proper places, with explanatory foot-notes;

(3) some further foot-notes have been added for convenience of reference;

(4) Arabic numerals have been substituted for the Roman numerals used in the original edition to denote the section-numbers;

(5) the number and year of Acts referred to in the text have been noted in the inner margin;

(6) an appendix has been added;

(7) the headings to the pages have been amplified.

Act VI of 1864 was declared, by Act XV of 1874, s. 3, to be in force in the whole of British India, except as regards the Scheduled Districts. The Act has been declared, under the Scheduled Districts Act, 1874, to be in force in the following Scheduled Districts, namely:—

Kumaon and Garhwal	see Gazette of India,	1876, Part I, p. 605;
Sindh	„	1878, Part I, p. 482;
The Districts of Kamrup, Nowgong, Darrang, Sibsagar, Lakhimpur, Goalpara (including the Eastern Dwárs) and Kachar (excluding the North Kachar Hills)	„	1878, Part I, p. 533;
Coorg	„	1878, Part I, p. 747;
Aden	„	1879, Part I, p. 434
Jaunsar Bawar	„	1879, Part I, p. 382;
The Scheduled portion of the Mirzapur District	„	1879, Part I, p. 383;
The District of Sylhet	„	1879, Part I, p. 631;
The Scheduled Districts of the Central Provinces	„	1879, Part I, p. 771;
West Jalpáiguri, the Western Dwárs, the Western Hills of Darjeeling, the Darjeeling Tarai and the Damson Subdivision of the Darjeeling District	„	1881, Part I, p. 74;

The Districts of Hazaribagh, Lohardaga and Manbhum, and Pargana Dalbhum and the Kolhan in the District of Singbhum . .	see Gazette of India,	1881, Part I, p. 374;
The Andaman and Nicobar Islands . .	„	1882, Part I, p. 148;
The Districts of Hazára, Peshawar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khan	„	1886, Part I, p. 48;
The District of Lahaul	„	1886, Part I, p. 301.

The Act has been extended, under the same Act, to the North-Western Provinces Tarai, see Gazette of India, 1876, Part I, p 505.

The Act has been applied to the Sonthal Parganas by Reg. III of 1872, s. 3, as amended by Reg. III of 1886 (Bengal Code, Vol. I, Ed 1889, p. 597); to British Baluchistan by Reg. I of 1890, s. 3 (Baluchistan Code, Ed 1890, p. 69); to Angul and the Khondmals by Reg. I of 1894, s. 3; and, save s. 6, to Upper Burma generally (except the Shan States) by Act XX of 1886, s. 6 (Burma Code, Ed. 1889, p. 364); and to hill-tribes to which the Kachin Hill-tribes Regulation, 1895, is applied—see Reg. I of 1895, ss. 1 (*3*) and 3 (*1*).

ACT No. VI of 1864.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 18th February, 1864.)

An Act to authorize the punishment of whipping [a] in certain cases.

[As modified up to the 1st March, 1895.]

Preamble. WHEREAS it is expedient that in certain cases offenders should be liable under the provisions of
XLV of 1860. the Indian Penal Code, [b] to the punishment of whipping; It is enacted as follows:—

Whipping added to the punishments described in section 53 of the Penal Code. 1. In addition to the punishments described in section 53 of the Indian Penal Code, [b] offenders are also liable to whipping under the provisions of the said Code.

Offences punishable with whipping in lieu of other punishment prescribed by Penal Code. [c] 2. Whoever commits any of the following offences may be punished with whipping in lieu of any punishment to which he may for such offence
XLV of 1860. be liable under the Indian Penal Code, [b] that is to say:—

Group A.

(*1*) theft, as defined in section 378 of the said Code;

(*2*) theft in a building, tent or vessel, as defined in section 380 of the said Code;

(*3*) theft

[a] As to punishment of whipping for certain offences in the Gáro Hills, the Khási and Jaintiá Hills, and the Nágá Hills Districts—see Reg. III of 1875. As to punishment of whipping for certain offences in places in which the Punjab Frontier Crimes Regulation, 1887, is in force — see Reg. IV of 1887, ss. 1 (*3*), 3 and 14 (*2*), in Punjab Code, Ed. 1888, p. 393, and Reg. IV of 1889, s. 2.

[b] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

[c] The ss. 2, 3 and 4 here printed were substituted for the original ss. 2, 3 and 4 by Act III of 1895, s. 5.

(*3*) theft by a clerk or servant, as defined in section 381 of the said Code;

(*4*) theft after preparation for causing death or hurt, as defined in section 382 of the said Code;

Group B.

(*5*) extortion by threat, as defined in section 388 of the said Code;

(*6*) putting a person in fear of accusation in order to commit extortion, as defined in section 389 of the said Code;

Group C.

(*7*) dishonestly receiving stolen property, as defined in section 411 of the said Code;

(*8*) dishonestly receiving property stolen in the commission of a dacoity, as defined in section 412 of the said Code;

Group D.

(*9*) lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section;

(*10*) lurking house-trespass by night, or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section.

On second conviction of offence mentioned in section 2, whipping may be added to other punishment.

[*] 3. Whoever, having been previously convicted of any one of the offences specified in the last preceding section, shall again be convicted of the same offence or of any offence included in the same Group of offences, may be punished with whipping in lieu of or in addition to any other punishment to

[*] See foot-note [*] on last preceding page.

to which he may for such offence be liable under the Indian[a] Penal Code.[a]

XLV of 1860.

Offences punishable, in case of second conviction, with whipping in addition to other punishment.

[b] **4.** Whoever, having been previously convicted of any one of the following offences, shall be again convicted of the same offence, or of any offence included in the same Group of offences, may be punished with whipping in addition to any other punishment to which he may be liable under the Indian Penal Code,[a] that is to say:—

XLV of 1860.

Group A.

(*1*) giving or fabricating false evidence in such manner as to be punishable under section 193 of the Indian Penal Code;[a]

(*2*) giving or fabricating false evidence with intent to procure conviction of a capital offence, as defined in section 194 of the said Code;

(*3*) giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in section 195 of the said Code;

Group B.

(*4*) falsely charging any person with having committed an unnatural offence, as defined in sections 211 and 377 of the said Code;

Group C.

(*5*) assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in section 354 of the said Code;

(*6*) rape, as defined in section 375 of the said Code;

(*7*) unnatural offences, as defined in section 377 of the said Code;

Group D.

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

[b] See foot-note [c] on p. 1, *supra*.

(*Section 4.*)

Group D.

(8) robbery or dacoity, as defined in sections 390 and 391 of the said Code;

(9) attempting to commit robbery, as defined in section 393 of the said Code;

(10) voluntarily causing hurt in committing robbery, as defined in section 394 of the said Code;

Group E.

(11) habitually receiving or dealing in stolen property, as defined in section 413 of the said Code;

Group F.

(12) forgery, as defined in section 463 of the said Code;

(13) forgery of a document, as defined in section 466 of the said Code;

(14) forgery of a document, as defined in section 467 of the said Code;

(15) forgery for the purpose of cheating, as defined in section 468 of the said Code;

(16) forgery for the purpose of harming the reputation of any person, as defined in section 469 of the said Code;

Group G.

(17) lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section;

(18) lurking house-trespass by night, or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section.

5. Any

Juvenile offenders punishable with whipping for offences not punishable with death.

5. Any juvenile offender who commits any offence XLV of 1860. which is not by the Indian Penal Code [a] punishable with death, may, whether for a first or any other offence, be punished with whipping in lieu of any other punishment to which he may for such offence be liable under the said Code.

[b] *Explanation.*—In this section the expression "juvenile offender" means an offender who in the opinion of the Court is under sixteen years of age, the decision of the Court on such matter being final and conclusive.

When offences specified in section 4 may be punished with whipping in Frontier Districts.

[c] **6.** Whenever any Local Government shall by notification in the official Gazette have declared the provisions of this section to be in force in any Frontier District or any wild tract of country within the jurisdiction of such Local Government, any person who shall in such district or tract of country after such notification as aforesaid commit any of the offences specified in section 4 of this Act, may be punished with whipping in lieu of any other punishment to XLV of 1860. which he may be liable under the Indian Penal Code.[a]

7. [*Exemption of females and certain convicts.*] *Repealed by Act X of 1882.*

8. [*Certain classes of Magistrates to be specially empowered.*] *Repealed by Act X of 1872.*

9, 10. [*Time and mode of whipping.*] *Repealed by Act XVI of 1874.*

11, 12. [*Punishment not to be inflicted if offender not in fit state of health, nor by instalments; Procedure in certain cases.*] *Repealed by Act X of 1872.*

APPENDIX.

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[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

[b] This *Explanation* was added by Act III of 1895, s. 6.

[c] This s. 6 does not apply to Upper Burma (see Act XX of 1886, s. 6, in Burma Code, Ed. 1889, p. 364), or to hill-tribes to which the Kachin Hill-tribes Regulation, 1895, is applied (see Reg. I of 1895, ss. 1 (*3*) and 3 (*1*).) The revised sections applicable thereto are printed in the Appendix, *infra*.

APPENDIX.

I. Section 6 of Act VI of 1864, as in force in Upper Burma (except the Shan States), runs as follows [see Act XX of 1886, s. 7 (*1*), (*c*) [*]] :—

"6. (*1*) Notwithstanding anything in the foregoing sections of this Act, a person convicted of an offence specified in the schedule to this Act or of any offence which the Local Government, with the previous sanction of the Governor General in Council, may add to that schedule, may be punished with whipping, either in lieu of, or in addition to, any other punishment to which he may be liable.

"(*2*) The Local Government may at any time suspend the operation of this section in whole or in part in any district or part of a district, and, with the previous sanction of the Governor General in Council, remove the suspension of its operation."

"THE SCHEDULE.

(*See section 6, sub-section* (*1*).)

Section of Indian Penal Code.	Offence.
302	Murder.
304	Culpable homicide not amounting to murder.
307	Attempt to murder.
325	Voluntarily causing grievous hurt.
326	Voluntarily causing grievous hurt by dangerous weapons or means.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
333	Voluntarily causing grievous hurt to deter public servant from his duty.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it.
386	Extortion by putting a person in fear of death or grievous hurt.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.
392	Robbery.
393	Attempt to commit robbery.

394. Person

[*] Printed in Burma Code, Ed. 1889, p. 365.

"THE SCHEDULE—concld.

Section of Indian Penal Code.	Offence.
394	Person voluntarily causing hurt in committing, or attempting to commit, robbery, or any other person jointly concerned in such robbery.
395	Dacoity.
396	Murder in dacoity.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.
398	Atempt to commit robbery or dacoity when armed with deadly weapon.
399	Making preparation to commit dacoity.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.
402	Being one of five or more persons assembled for the purpose of committing dacoity.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.
435	Mischief by fire or explosive substance with intent to cause damage to amount of one hundred rupees or upwards, or, in case of agricultural produce, ten rupees or upwards.
436	Mischief by fire or explosive substance with intent to destroy a house, etc.
440	Mischief committed after preparation made for causing death or hurt, etc.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, etc.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, etc.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, etc.
506	Criminal intimidation, if threat be to cause death or grievous hurt, etc.
	Abetment of any of the foregoing offences.
	Attempt to commit any of those offences which are not themselves expressed to be attempts to commit offences."

II. Section 6 of Act VI of 1864 as applicable to hill-tribes to which the Kachin Hill-tribes Regulation, 1895, is applied, runs as follows [see Reg. I of 1895, ss. 1 (*3*) and 3 (*1*)]:—

> " Notwithstanding anything in the foregoing sections of this Act, a person convicted of any offence may be punished with whipping in lieu of, or in addition to, any other punishment to which he may be liable."

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